

Authority: Toronto and East York Community Council Item 36.11,
as adopted by City of Toronto Council on August 25, 26 and 27, 2010
Enacted by Council: August 27, 2010

CITY OF TORONTO

BY-LAW No. 1041-2010

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 335 King Street West, 355 King Street West and 119 Blue Jays Way.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS the Official Plan of the City of Toronto contains provisions relating to the authorization of the *height* and density of development; and

WHEREAS pursuant to section 37 of the *Planning Act*, the Council of a municipality may, in a by-law passed under section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the by-law; and

WHEREAS subsection 37 (3) of the *Planning Act* provides that, where an *owner* of land elects to provide facilities, services or matters in return for any increase in the *height* or density of development, the municipality may require the *owner* to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the *owner* of the lands hereinafter referred to has elected to provide the facilities, services and matters as are hereinafter set forth;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The lands subject to this By-law are those lands identified in the year 2009 as 355 King Street West, 335 King Street West and 119 Blue Jays Way as shown on Map 1 attached hereto.
2. None of the provisions of Sections 4(2)(a), 4(14), 7(3) Part I 1, 7(3) Part II 1(i) and (ii), 7(3) Part II 3, 4, 5 and 8(ii), and 12(2)246(a) of Zoning By-law No. 438-86, of the former City of Toronto, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection or use of a *mixed-use building* on the *lot* provided that:
 - (a) the *lot* on which the building is located comprises at least those lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;

- (b) the aggregate of the *residential gross floor area* and *non-residential gross floor area* erected and used on the *site* shall not exceed 55,750 square metres, subject to the following:
 - (i) the *residential gross floor area* shall not exceed 51,750 square metres; and
 - (ii) the *non-residential gross floor area* shall not exceed 4,100 square metres.
- (c) no portion of the building or structure erected or used above grade is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend to a maximum of 1.5 metres beyond the heavy lines shown on Map 2; and
 - (ii) other projections shall be permitted beyond the heavy lines shown on Map 2 in accordance with Section 7, Part II 7.
- (d) no portion of the building or any structure erected on the *site* shall have a greater *height* in metres than the *heights* in metres specified by numbers following the symbol H on the attached Map 2, with the exception of the following:
 - (i) any parapets, terrace guards and dividers, planters, railings, decorative screens, chimney stack or other heating, cooling or ventilating equipment or window washing equipment, provided that the maximum *height* of the top of any such element is no higher than the sum of 2.1 metres and the applicable *height* limit shown on Map 2.
- (e) despite section 4(8) and 12(2)246(e) to (i) of Zoning By-law No. 438-86, as amended, at least one *loading space – Type "G"* and two *loading spaces – Type "B"* shall be provided and maintained on the *site*.

3. Section 37 Requirements

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *site* at its expense to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of the agreement:

- (i) An indexed cash contribution of \$1,250,000.00 of which 10 per cent will be allocated to affordable housing in Ward 20, and the remainder for the provision of one of more of the following:
 - capital improvements to non-profit arts and cultural facilities in Ward 20;

- streetscape improvements to John Street and Mercer Street;
- design development supporting the John Street streetscape project;
- (ii) the indexed cash contribution is to be provided prior to the issuance of an above-grade building permit;
- (iii) The provision of space for a non-profit arts, cultural or institutional facility in an amount of not less than 900 square metres; or an appropriate alternate community benefit to be negotiated with City Planning staff and the Ward Councillor, acting reasonably, should the cultural space not be viable;
- (iv) Construction, provision and maintenance of a publicly accessible walkway providing a mid-block connection through the site in a north and south direction between King Street West and Mercer Street;
- (v) Provision of a minimum of ten percent (10%) of the residential dwelling units in the building having at least three bedrooms,
- (vi) Provision by the *owner* of detailed design drawings showing drainage patterns from the public lane located to the east of the site, locations of proposed catchbasins, transitioning of grade along the centreline and limits of the laneway, curb cut details on Mercer Street and all proposed underground utility relocations from the existing laneway to the proposed new laneway, to the satisfaction of the City's Executive Director of Technical Services, prior to the issuance of any building permits for the site or any portion thereof;
- (vii) Provision by the *owner* of architectural plans, elevations and landscape drawings to the satisfaction of the Chief Planner and Executive Director, City Planning Division, including submission by the *owner* of 1:50 scale elevation drawings for the podium illustrating materials and finishes to the satisfaction of the Chief Planner and Executive Director, City Planning Division prior to any site plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006 for the site or any portion thereof;
- (viii) Incorporation in the construction of the building by the *owner*, and thereafter maintenance, of the exterior building and landscape materials by the *owner* to the satisfaction of the *City's* Chief Planner and Executive Director;
- (ix) Submission of a wind study to the satisfaction of the Chief Planner and Executive Director, *City Planning Division*, and provision and implementation of any wind mitigation measures required therein, to the satisfaction of the Chief Planner and Executive Director, *City Planning Division*, prior to the issuance of any *site* plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006 for the *site* or any portion thereof;

- (x) Provision and maintenance of an irrigation system, at the *owner's* expense, for proposed trees within the public road allowances including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the *City's* Executive Director, Technical Services Division, and requirement to maintain in good order and operation;
 - (xi) Prior to the issuance of any building permits for the *site* or any portion thereof, including for excavation and shoring, the *owner* shall have obtained title to the land shown on Maps 1 and 2 and labelled "Old Lane" and shall have conveyed to the City the land shown on Maps 1 and 2 and labelled "New Lane";
 - (xii) The *owner* will ensure and the City shall permit the *owner* to undertake the proposed underground utility relocations from the "Old Lane" to the "New Lane" and the construction of the "New Lane" prior to any actions by the *owner* to limit or prohibit public access through the lands identified as the "Old Lane";
 - (xiii) The *owner* acknowledges the requirement to make alternative arrangements to the satisfaction of the General Manager of Transportation Services with respect to charter bus parking for the Princess of Wales Theatre in accordance with the Development Agreement between Ed Mirvish Enterprises Limited and the City of Toronto dated June 17, 1991.
4. For the purposes of this By-law, all italicized words and expressions have the same meanings as described in By-law No. 438-86, as amended, with the exception that the following expressions shall have the following meanings:
- "*City*" means the City of Toronto;
- "*grade*" means 85.8 metres Canadian Geodetic Datum; and
- "*height*" means the vertical distance between *grade* as defined in this By-law and the highest point of the roof except for those elements prescribed in Section 2(d) of this By-law;
- "*owner*" has the same meaning as in Zoning By-law No. 438-86, as amended, except it shall not include the *City*;
- "*site*" means the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- "*temporary sales office*" means a temporary building, structure, facility or trailer on the *site* used for the purpose of the sale of the dwelling units to be erected on the *site*.
5. Upon execution and registration of an agreement or agreements with the owner of the lot pursuant to Section 37 of the *Planning Act* securing the provisions and facilities, services or matters set out in Section 3 i) through xi) above, the lot is subject to the provisions of this By-law provided that in the event of said agreement(s) requires the provision of a

facility, service or matter as precondition to the issuance of a building permit, the owner may not erect or use such building until the *owner* has satisfied said requirements.

6. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the *site*.
7. For the sake of clarity, nothing herein shall be interpreted as preventing the issuance of building permits required to repair or maintain the buildings existing on the *site* in the year 2010.
8. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
 - (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
9. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.
10. Despite any existing of future consent, severance, partition, or division of the site, the provisions of this By-law shall apply to the whole of the site as if no consent, severance, partition or division occurred.

ENACTED AND PASSED this 27th day of August, A.D. 2010.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)



